

in fact between the parties in regard to the payments made by Mr. Charles B. Calvert to his brothers-in-law after the death of his father. That does not appear upon the face of the award itself, nor by reference to any documents or schedule appended to it, or in any way made a part of it. If the award had referred to the paper marked C. B. C., No. 4, and had directed the payments there mentioned to be credited against the sum awarded, so that the result would have depended upon a mere arithmetical calculation, the case might have been different, because that perhaps would have been reserving a mere ministerial and not a judicial question, and thus brought it within that class of cases referred to in *Watson on Awards*, 105, 106. But to take an account was certainly not to perform a mere ministerial act. It was, in fact, the very thing the arbitrators themselves were to do, and which the parties to the submission preferred to have done by them than by a resort to the ordinary judicial tribunals.

This is an objection which I think is fatal to the award, renders it totally void, and which, consequently, removes it from the way of the plaintiff in this case.

The only remaining question which I deem it proper in this case to notice, relates to the claim of the plaintiff to a portion of the damages paid by the Railroad Company for the right of way through certain lands. It appears by an extract from the deed executed by George Calvert, deceased, to the Baltimore and Ohio Railroad Company, dated the 4th of March, 1834, (which it is agreed shall be taken in lieu of the whole deed,) that for the consideration of eleven thousand dollars he conveyed to the Company all his interest, both at law and in equity, in and to two parcels of land as therein described, for the sole purpose, as expressed in the deed, of the passage and construction of the road through said lands, which lands, as appears by an agreement filed on the 17th instant, belonged in part to the children of Mrs. Calvert, and in part to George Calvert, the grantor, and the question raised is, whether the children of Mrs. Calvert, of whom the complainant's wife was one, are entitled, as against the representatives of George Calvert, to re-